

REMARKS

Applicant has carefully reviewed the Office Action dated October 31, 2002, and respectfully requests reconsideration in view of the following remarks. A separate petition and fee for a three-month extension of time to respond to the Office Action are provided herewith.

Formal Matters

As a preliminary matter, Applicants have amended claims 1, 8, 11 and 14 to capture all the new matter described in the specification but not previously claimed. Support for each amendment can be found, respectively, in the following passages of the specification: Page 1, lines 30-32; Page 2, line 11; Page 3, line 10; and Page 1, lines 30-32. No new matter has been added. The claims now not only cover the X-Y group positional isomers, as recognized by the examiner, but also additional substituents that can be attached to the lactone ring.

Double Patenting

Claims 1-14 were rejected under the nonstatutory judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,423,850. The amendments presented above should have no effect on this rejection.

As to the rejection, Applicant submits herewith a Terminal Disclaimer in compliance with 37 CFR 1.321(c) to overcome this nonstatutory double patenting ground for rejection.

The application should now be in allowable form. If for some reason the application is not allowable, Applicants' attorney request a telephonic interview with the Examiner to discuss the case and any additional amendments to the claims that may be required to place the case in allowable form.

Respectfully submitted,


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